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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRANCIS JOHNSON,

Plaintiff,

v.

STATE OF NEVADA, et al.,

Defendants.

Case No. 2:14-cv-01425-GMN-PAL

**DEFENDANTS' MOTION FOR EXTENSION
OF DEADLINE TO FILE JOINT PRETRIAL
ORDER**

(Defendants' Third Request)

Defendants Miguel Flores-Nava, Jennifer Nash, and Sheryl Foster, by and through counsel, Adam Paul Laxalt, Nevada Attorney General, Jared M. Frost, Senior Deputy Attorney General, and Frank A. Toddre II, Deputy Attorney General, hereby request an extension of the deadline to file a joint pretrial order as set forth in this Court's order dated April 28, 2016 (ECF No. 54). This motion is made and based on the following memorandum of points and authorities, the pleadings and papers on file, and any other evidence the Court deems appropriate to consider.

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I. BACKGROUND

This is an inmate civil rights action filed pursuant to 42 U.S.C. section 1983. See ECF No. 19 (Plaintiff's amended complaint). On December 19, 2014, this Court imposed a 90-day stay for the purpose of settlement negotiations. See ECF No. 18 (screening order dated December 19, 2014). On April 3, 2015, the parties participated in an early mediation conference that did not result in settlement. See ECF No. 25.

On June 18, 2015, Defendants filed an Answer to Plaintiff's amended complaint. ECF No. 36. On August 21, 2015, the Court issued a scheduling order. ECF No. 39.

On November 6, 2015, Plaintiff filed a motion to extend the discovery period for an additional ninety (90) days. ECF No. 41. On December 14, 2015, the Court granted Plaintiff's motion and extended the discovery period until February 16, 2016. ECF No. 46 at 5.

On March 2, 2016, Defendants filed a motion to extend the remaining scheduling deadlines for thirty (30) days. ECF No. 48. On March 4, 2016, the Court granted Defendants' motion. ECF No. 50.

On April 4, 2016, Defendants filed a motion to extend the remaining scheduling deadlines for an additional eleven (11) days. ECF No. 52.

On April 14, 2016, Plaintiff filed a motion for summary judgment. ECF No. 53.

On April 28, 2016, the Court granted in part Defendants' motion to extend the remaining scheduling deadlines for an additional eleven (11) days. ECF No. 54. Pursuant to the Court's order, the parties have until May 27, 2016, to file a joint pretrial order. *Id.* at 4.

On April 29, 2016, Defendants filed a motion for summary judgment. ECF No. 56.

On May 4, 2016, the Court issued an order referring the case for a settlement conference. ECF No. 57.

This motion to extend the deadline to file the joint pretrial order follows.

II. APPLICABLE LAW

Local Rule 26-4 (revised May 1, 2016) provides as follows:

A motion or stipulation to extend any date set by the discovery plan, scheduling order, or other order must, in addition to satisfying the requirements of LR IA 6-1, be supported by a showing of good cause

for the extension. A motion or stipulation to extend a deadline set forth in a discovery plan must be received by the court no later than 21 days before the expiration of the subject deadline. A request made within 21 days of the subject deadline must be supported by a showing of good cause. A request made after the expiration of the subject deadline will not be granted unless the movant also demonstrates that the failure to act was the result of excusable neglect.

III. ARGUMENT

Defendants submit that there is good cause to extend the deadline to file the joint pretrial order until thirty (30) days after the Court rules on the parties' dispositive motions. Pursuant to Rule 26(a)(3)(B) of the Federal Rules of Civil Procedure, pretrial disclosures "must be made at least 30 days before trial" And while it is well within the court's discretion to order otherwise, a ruling on a dispositive motion may obviate the need for trial and by extension a pretrial order. Even if the Court's ruling on the parties' dispositive motions does not result in a complete resolution of the matter, the ruling may narrow the issues for trial and thus significantly impact the information provided by the parties in the joint pretrial order. In addition, this case was recently referred for a settlement conference, see ECF No. 57, which could also result in the resolution of this matter without the need for trial. Finally, Defendants note that this Court's scheduling order contemplated that "[i]n the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty days after a decision of the dispositive motions or until further order of the court." ECF No. 39 at 3.¹ For all these reasons, there is good cause to extend the deadline to file the joint pretrial order.

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¹ This provision is arguably applicable to this Court's subsequent orders to extend the deadline for the filing of the joint pretrial order; however, Defendants file this motion in an abundance of caution and because the provision is not included in the Court's subsequent orders. See ECF No. 54 at 4 (unconditionally directing the parties to "file a joint pretrial order on or before May 27, 2016").

1 **IV. CONCLUSION**

2 There is good cause to extend the deadline to file a joint pretrial order until 30 days after
3 the Court rules on the parties' dispositive motions, and Defendants' motion should be granted.

4 DATED this 5th day of May, 2016.

5 Respectfully submitted,

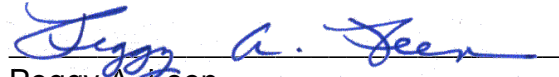
6 ADAM PAUL LAXALT
Nevada Attorney General

7 By: /s/ Jared M. Frost
8 JARED M. FROST
9 Senior Deputy Attorney General
Bureau of Litigation
Public Safety Division

10 *Attorneys for Defendants*

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12 **IT IS ORDERED** that the Joint Pretrial Order shall be due thirty days after the dispositive
13 motions are decided.

14 Dated: May 12, 2016

15 
16 Peggy A. Leen
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on the 5th day of May, 2016, I served the foregoing, **DEFENDANTS' MOTION FOR EXTENSION OF DEADLINE TO FILE JOINT PRETRIAL ORDER (Defendants' Third Request)**, by causing a true and correct copy thereof to be filed with the Clerk of the Court, using the electronic filing system, and by causing a true and correct copy thereof to be delivered to the Department of General Services, for mailing at Las Vegas, Nevada, addressed to the following:

Francis Johnson #45800
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, Nevada 89070
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT
An employee of:
STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL